IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7011 OF 2005

Sharanappa Rayapp Fulari ..Petitioner

Vs.

Maratha Mandir, Ichalkaranji and ors. ..Respondents

Mr. I.M. Khairdi for petitoner.
Mr. T.S. Ingale for respondent no.1.
Mrs.M.P. Thakur, AGP for respondent nos.2 to 5.

CORAM: B.H. MARLAPALLE & NARESH H. PATIL,JJ.

Date : September 11, 2006.

P.C.:

1. We have heard Mr. Khairdi the learned counsel for the petitioner and Mr. Ingale the learned counsel for the respondent no.1. The learned AGP appears for respondent nos.2 to 5.

2. Writ Petition No. 3793 of 2002 in which the present petitioner was one of the petitioners came to be decided by this court (Division Bench) on 27/9/2002. The closure notice as well as termination notice issued by the management were quashed and set aside and the management was directed to pay the salary of the teaching as well as non-teaching staff

as per the prescribed rates from 1/7/1999 (4th Pay Commission) and from August, 2000 (5th Pay Commission). The arrears were directed to be paid within four months. It was further made clear that in case the management made an application for closure of the polytechnic, the same would be considered in accordance with law after giving an opportunity of hearing to all the concerned parties, including the employees.

3. The State Government vide its order dated 31/12/2004 granted permission to close down the polytechnic provided the management obtained no objection certificates from the employees and the liability of loan etc. was entirely that of the management. The Director, Technical Education, Government of Maharashtra passed his order on 14/1/2005 and allowed the application for closure and subject to the condition that no employee would be adversely affected financially and the pending court cases will be contested by the management and it alone would be responsible for the outcome of such cases. The present petition while challenging this order also raises the grievance regarding non-payment of salary

as per the directions given by this court in Writ Petition No. 3793 of 2002.

4. We are also informed that Contempt Petition No.317 of 2003 came to be filed in Writ Petition No.3793 of 2002 and in the same the management filed an affidavit in reply on 22/9/2003 and the additional affidavit in reply sometimes in April 2004. As per the management the petitioner's salary upto January 2004 has been paid by Demand Draft and Cheque and such a statement has been made in the additional affidavit filed in Contempt Petition No.317 of 2003. We have noted that the management is required to pay the salary to the teachers till the Director, Technical Education passed his order on 14/1/2005 i.e. upto January, 2005. The learned counsel for the respondent no.1 submitted that all other teachers and non-teaching staff have been paid their dues in terms of the salary and allowances as per the order passed by this court in Writ Petition No.3793 of 2002 and all of them submitted their NOC. However, the petitioner, though called upon on different occasions, did not submit such NOC and his salary is due to be paid from February 2004 onwards. The management, therefore,

undertakes to pay the arrears in the salary on the lines that they have been paid to other similarly placed teachers by DD and the said DD to be drawn in the name of the petitioner can be collected by the petitioner by furnishing his NOC.

5. We, therefore, disposed off this petition by directing the respondent no.1 to deposit the arrears in salary amount by DD drawn in favour of the petitioner with the Registry of this Court latest by 13th October, 2006 and the petitioner is at liberty to submit his NOC with the Registrar (Judicial) and collect the DD by furnishing an acknowledgment/receipt.

6. The Registrar (Judicial) to act upon a copy of this order.

(Naresh H. Patil, J.) **(B.H. Marlapalle,J.)**